

REMARKS

Claims 1-3, 5-21, and 23-27 are currently pending in the application for consideration. In view of the following remarks, Applicant respectfully requests the application be allowed and forwarded on to issuance. Claims 1, 10, 16, and 24, 25, and 27 are amended without prejudice or disclaimer. Support for new claim 28 and the amendments may be found throughout the specification and particularly at paragraphs [0066], [0072], [0098], and [0102]. No new matter is believed to be added.

INTERVIEW SUMMARY

Applicant's counsel, Nathan Grebasch, wishes to thank Examiner Stork for conducting a telephonic interview on October 29, 2009.

During the interview, Examiner and Counsel discussed U.S. Patent No. 6,985,934 to Armstrong in view of U.S. Patent No. 7,010,580 to Fu et al. Counsel noted that Armstrong described "polling" which failed to teach or suggest "receiving an indication" as recited in claim 1. Counsel also noted that Fu teaches the use of "universal formats," rather than a "virtual player, selected based on the detected one or more attributes." Although a formal agreement was not reached, Examiner indicated that an amendment that recited the feature of "one or more attributes" may aid in distinguishing the recited features.

If any issues remain that would prevent the allowance of the application, Applicant requests that the Examiner contact the undersigned attorney to resolve the issues.

Rejections Under 35 U.S.C. §103(a)

Claims 1-3, 5-7, 9-14, 16-20, and 23-27 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,985,934 to Armstrong et al. (hereinafter “Armstrong”) in view of U.S. Patent No. 7,010,580 to Fu et al. (hereinafter “Fu”).

Claims 8, 15, and 21 stand rejected under 35 U.S.C. § 103(a) as being obvious over Armstrong in view of Fu further in view of U.S. Patent No. 6,262,724 to Crow et al. (hereinafter “Crow”).

Applicant traverses the rejection.

The Claims

Claim 1 as amended recites a method comprising (emphasis added):

- ***receiving an indication***, over a network from a network device, that an internet browser on the network device ***has requested access to a rich media presentation***;
- in response to the indication, ***detecting one or more attributes of one or both of the internet browser’s rich media capabilities or the network device’s rich media capabilities***; and
- ***selecting a rich media presentation to be sent to the internet browser from among a plurality of rich media presentations based on the detected one or more attributes***, the rich media presentation including a media package and a virtual player, ***selected based on the detected one or more attributes***, configured to play the media package on the network device.

In making out the rejection, the Office relies on Armstrong as teaching the feature of “automatically determining when an internet browser of a network device on a network has requested access to a rich media presentation.” Office

Action page 3, item 5, second paragraph. Applicant respectfully disagrees that Armstrong teaches this feature or that this is even an applicable feature. Claim 1 recites “*receiving an indication*, over a network from a network device, that an internet browser on the network device *has requested access to a rich media presentation*.” Thus, for the sake of argument only, even assuming that Armstrong does teach “determining when an internet browser of a network device on a network has requested access” (as contended by the Office) this does not necessarily teach or suggest “receiving an indication” that “the network device *has requested access to a rich media presentation*” as recited in this claim. This is to say that Armstrong’s “polling” does not teach “receiving an indication” that an internet browser on “the network device *has requested access to a rich media presentation*” as claimed because Armstrong polls for information rather than “receiving an indication” “that an internet browser on the network device *has requested access to a rich media presentation*.”

Unlike Armstrong’s “polling,” the recited feature of “detecting one or more attributes of one or both of the internet browser’s rich media capabilities or the network device’s rich media capabilities” is “in response to the indication.” As a result, Armstrong’s disclosure of continual polling does not teach or suggest “detecting one or more attributes” “in response to the indication” as recited in claim 1.

Claim 1 also recites “*selecting a rich media presentation to be sent to the internet browser from among a plurality of rich media presentations based on the detected one or more attributes*, the rich media presentation including a media package and a virtual player, *selected based on the detected one or more*

attributes, configured to play the media package on the network device.” In making out the rejection, the Office relies on Fu to correct Armstrong’s failure to disclose this feature. Applicant disagrees that Fu corrects this deficiency in Armstrong.

5 Fu is directed to formatting data to be accessed in one or more universal formats. Thus, instead of selecting a rich media presentation “*based on the detected one or more attributes*,” Fu teaches the use of “universal formats.” For at least the foregoing reasons, removal of the rejection is requested and allowance is solicited.

10 **Claims 2, 3, 5-9, 23, and 24** depend, either directly or indirectly, on claim 1. Thus, the comments directed above to Armstrong and Fu regarding claim 1 apply equally to claims 2, 3, 5-9, 23 and 24. . Furthermore, claims 2, 3, 5-9, 23 and 24 each recite features that are not disclosed, taught, or suggested by the contended combination.

15 For example, claim 2 recites, “detecting the one or more attributes comprises detecting two or more attributes from: an operating system type attribute, a plug-in attribute, a browser type attribute, a firewall attribute, a monitor setting attribute, a language attribute, a bandwidth attribute, or a protocol attribute.” Although the Office cited Armstrong col. 5, lines 40-62, nowhere in
20 this passage are any “attributes” described. This is also the case for Armstrong col. 10, lines 17-35 which was also cited by the Office as teaching the features of claim 2.

In making out the rejection of claim 3, the Office contends that Armstrong, col. 8, lines 4-19 teaches the features of “determining when one or both of the

internet browser and the network device supports playing the rich media presentation; configuring the rich media presentation based on the detected attributes when a determination is made that playing of the rich media presentation is supported; otherwise, causing a supported presentation to be sent to the internet browser.” Applicant disagrees. Nowhere in the cited passage from Armstrong is the feature of “otherwise, causing a supported presentation to be sent to the internet browser” taught or suggest. Furthermore, this passage from Armstrong fails to even mention the use of an internet browser.

Armstrong and Fu fail to support a § 103 rejection of Claim 5 at least because neither Armstrong nor Fu teaches “allowing a client to modify one or more characteristics.” In making out the rejection of claim 5, the Office contends that Armstrong, col. 9, lines 1-41 discloses this feature. Applicant respectfully disagrees. Nowhere does Armstrong teach or suggest modifying “one or more characteristics” as recited in this claim.

For at least the foregoing reasons, the comments directed above to Armstrong and Fu regarding claim 1 apply equally to claims 2, 3, 5-9, 23, and 24. Removal of the rejection is requested and allowance is solicited.

Claim 10 as amended recites one or more computer-readable storage media having instructions stored thereon, the instructions comprising (emphasis added):

- instructions to *automatically determine when a rich media presentation is accessed by an internet browser on a network device* when the network device is coupled to a network;
- instructions to *detect one or more attributes relating to rich media presentation capabilities of one or both of the internet browser and the network device*; and
- instructions to cause the rich media presentation to be sent to the internet browser, the rich media presentation including a media

package and a virtual player, *selected based on the one or more attributes that are detected*, configured to play the media package.

5 In making out the pending rejection, the Office contends that the features of claim 10 are “substantially similar to those of claim 1.” Applicant respectfully disagrees with the Office’s contention as to the similarity of claims 1 and 10 and the existence of a *prima facie* case of obviousness with respect to claim 10.

Claim 10 is drawn to “one or more computer-readable storage media having instructions stored thereon” while claim 1 is drawn to a method. In order
10 for a *prima facie* case of obviousness to exist, the Office must prove that the combination of Armstrong and Fu teach all the features recited in claim 10.

Armstrong does not disclose, teach, or suggest “instructions to *automatically determine when a rich media presentation is accessed by an internet browser on a network device*” as contended in the Office Action.
15 Instead, Armstrong teaches polling a client on the network. This is to say that Armstrong’s server never determines when “a rich media presentation is accessed” because Armstrong’s system repeatedly polls the client on the network for the availability of software and/or hardware. Armstrong, abstract.

The pending rejection is also improper because the combination of
20 Armstrong/Fu fails to teach “instructions to cause the rich media presentation to be sent to the internet browser, the rich media presentation including a media package and a virtual player, *selected based on the one or more attributes that are detected*, configured to play the media package” as recited in claim 10. The combination of Armstrong/Fu fails to teach these features because Armstrong
25 never sends a virtual player and Fu fails to teach or suggest sending a virtual

player “*selected based on the one or more attributes that are detected.*” Rather, Fu is specifically directed to creation of a viewer package containing viewer code formatted in a “universal format” Fu, col. 3, lines 43-51. In other words, instead of implementing a virtual player “*selected based on the one or more attributes*”
5 *that are detected,*” Fu instructs the use of a “universal format.” Thus, not only does the combination of Armstrong and Fu fail to teach all the features of claim 10, but Fu teaches away from the feature of “a virtual player, *selected based on the one or more attributes that are detected.*” For at least the foregoing reasons, removal of the pending rejections is requested and allowance is earnestly solicited.

10 **Claims 11-14 and 25** depend, either directly or indirectly, on claim 10. Thus, the comments directed above to Armstrong and Fu regarding claim 10 apply equally to claims 11-14 and 25. Furthermore, claims 11-14 and 25 each recite features that are not disclosed, taught, or suggested by the contended combination of Armstrong and Fu. For example, although the Office Action cites the rejection
15 of claim 3 in the rejection of claim 11, nowhere does the combination of Armstrong and Fu teach or suggest “configuring the rich media presentation based on the detected attributes when a determination is made that playing of the rich media presentation is supported.” For at least the foregoing reasons, Armstrong and Fu do not support a §103 rejection of claims 11-14 and 25. Removal of the
20 rejection is requested and allowance is solicited.

Claim 16 as amended recites a system comprising (emphasis added):

- a computing device operable to execute instructions to implement a rich media presentation application configured to:
- 25 • automatically *determine when the rich media presentation is accessed by an internet browser* on the network device;

- detect one or more attributes relating to rich media presentation capabilities of one or both of the internet browser and the network device based on a request from the network device for access to the rich media presentation; and
- select ***a rich media presentation, based on the detected one or more attributes***, to be provided to the internet browser from among a plurality of rich media presentations, the rich media presentation including a media package and ***a virtual player, selected based on the detected one or more attributes***, configured to play the media package.

Claim 16 as amended is not obvious over the combination of Armstrong and Fu at least because the Office has not proven that Armstrong discloses, teaches or suggests the feature of “***determine when the rich media presentation is accessed by an internet browser.***” Armstrong does not teach this feature because Armstrong relies on repeated polling to find out about hardware/software on the client. Armstrong, abstract. In other words, Armstrong does not determine when a “rich media presentation is accessed” because Armstrong uses polling to find out about the availability of software/hardware on the client. Thus, Armstrong fails to teach a determination related to access of a “rich media presentation.” Fu is not cited as correcting this deficiency in Armstrong.

In making out the rejection, the Office contends that Fu teaches the feature of “select ***a rich media presentation.***” Applicant respectfully disagrees with the Office’s contention. Fu teaches the use of a “viewer package containing data and viewer code” that is formatted in one or more universal formats. Thus, instead of “select ***a rich media presentation, based on the detected one or more attributes***” in which the rich media presentation includes “***a virtual player, selected based on the detected one or more attributes,***” (as recited in claim 16 as amended) Fu

teaches the use of universal formats. For at least the foregoing reasons, removal of the rejection to claim 16 is requested and allowance is earnestly solicited.

Claims 17-20, 26, and 27 depend, either directly or indirectly, on claim 16. Thus, the comments directed above to Armstrong and Fu regarding claim 16 apply
5 equally to claims 17-20, 26, and 27. Furthermore, claims 17-20, 26, and 27 each recite features that are that are not disclosed, taught, or suggested by the contended combination of Armstrong and Fu.

For instance, claim 17 recites “configure the rich media presentation based on the detected attributes when a determination is made that playing of the rich
10 media presentation is supported.” Although the Office cited Armstrong, col. 8, lines 4-18 as teaching the features of claims 3 and 17, nowhere in this passage is the use of an internet browser taught or suggested. Furthermore, this passage from Armstrong fails to teach making a determination related to an internet browser’s capability to support playing a rich media presentation.

15 For at least the foregoing reasons, Armstrong and Fu do not support a § 103 rejection of claims 17-20, 26, and 27. Removal of the rejection is requested and allowance is solicited.

Claims 8, 15, and 20 stand rejected over the combination of Armstrong/Fu/Crow. Claims 8, 15, and 20 depend either directly or indirectly on
20 independent claims that have been discussed above. Thus, the discussion of the independent claims applies equally to claims 8, 15, and 20, as depending from base claims for which a *prima facie* case of obviousness has not been proven. Furthermore, claims 8, 15, and 20 each recite features that are that are not disclosed, taught, or suggested by the contended combination of

Armstrong/Fu/Crow. For at least the foregoing reasons, removal of the rejection is requested and allowance is earnestly solicited.

Claim 28 is new and depends on claim 23. Allowance of claim 28 is respectfully requested.

5

Conclusion

Applicant requests reconsideration of all stated rejections, and requests issuance of a Notice of Allowability. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

10

Respectfully Submitted,

Dated: 12/3/09

15

By: /Nathan Grebasch/
Nathan Grebasch
Reg. No. 48,600
Attorney for Applicant

20

Sadler, Breen, Morasch & Colby, P.S.
422 W. Riverside Avenue, Suite 424
Spokane, Washington 99201
Telephone: (509) 755-7267
Facsimile: (509) 755-7252